

Regulation on the Administration of Employment of Foreigners in China (2017 Amendment)

Dan Young Business Consultancy — www.danyoungcpa.com

Unofficial English translation prepared for reference only. The official Chinese text prevails.

Contents

Table of Contents	1
Chapter I — General Provisions	1
Chapter II — Employment Permit and Conditions	2
Chapter III — Application Procedures	2
Chapter IV — Labor Contract and Management	2
Chapter V — Legal Liability	3
Chapter VI — Supplementary Provisions	3

Promulgated by Document No. 29 of the Ministry of Labor, the Ministry of Public Security, the Ministry of Foreign Affairs and the Ministry of Foreign Trade and Economic Cooperation on January 22, 1996, amended in accordance with the Decision of the Ministry of Human Resources and Social Security on Amending the Regulation on the Administration of Employment of Foreigners in China on March 13, 2017.

Table of Contents

- Chapter I — General Provisions
- Chapter II — Employment Permit and Conditions
- Chapter III — Application Procedures
- Chapter IV — Labor Contract and Management
- Chapter V — Legal Liability
- Chapter VI — Supplementary Provisions

Chapter I — General Provisions

Article 1 — This Regulation is formulated in accordance with the Exit and Entry Administration Law of the People's Republic of China and other relevant laws and regulations for the purposes of strengthening the administration of the employment of foreigners in China and regulating their employment behavior.

Article 2 — For the purposes of this Regulation, “foreigner” refers to a person who, in accordance with the provisions of the Nationality Law of the People's Republic of China, does not possess Chinese nationality.

Article 3 — This Regulation shall apply to the employment of foreigners by enterprises, public institutions, social organizations, private non-enterprise entities and individually-owned businesses within the territory of the People's Republic of China.

Article 4 — The labor administrative departments of the people's governments of provinces, autonomous regions and municipalities directly under the Central Government and the labor administrative departments of prefecture-level cities shall be responsible for the administration of the employment of foreigners in China.

Chapter II — Employment Permit and Conditions

Article 5 — An employer that intends to employ a foreigner shall apply for an employment permit for the foreigner, and may employ the foreigner only after obtaining approval and the Employment Permit for Foreigners of the People's Republic of China.

Article 6 — A foreigner seeking employment in China shall meet the following conditions:

1. Being 18 years of age or older and in good health; 2. Possessing the professional skills and corresponding work experience required for the intended work; 3. Having no criminal record; 4. Having a definite employer; 5. Holding a valid passport or other international travel document that can replace a passport.

Article 7 — Where a foreigner meets the following conditions, he or she may be exempted from the employment permit:

1. Foreign professionals and managerial personnel employed directly by the Chinese government; 2. Foreign technical and managerial personnel employed by government institutions with the approval of state-level authorities; 3. Foreign personnel holding a Foreign Expert Certificate issued by the foreign expert bureau; 4. Foreign workers engaged in offshore oil operations who do not need to land and hold a Work Permit for Foreign Personnel Engaged in Offshore Oil Operations in the People's Republic of China; 5. Foreigners engaged in commercial artistic performances with the approval of the Ministry of Culture.

Article 8 — The employment of foreigners in China shall meet the needs of the employers and shall be for positions for which there is a special need, where suitable candidates are temporarily unavailable in China and which do not violate the relevant State provisions.

Chapter III — Application Procedures

Article 9 — When applying for an employment permit, an employer shall submit the following documents:

1. An application form for the employment of a foreigner; 2. A business license or registration certificate; 3. A curriculum vitae of the foreigner to be employed; 4. A letter of intent for employment; 5. A report on the reasons for employing the foreigner; 6. The professional qualification certificate or academic certificate of the foreigner.

Article 10 — After obtaining the employment permit, the employer shall go through the formalities for the foreigner to apply for a work visa.

Article 11 — A foreigner who enters China with a work visa shall, within 15 days of entry, apply for a foreigner work permit to the labor administrative department.

Article 12 — A foreigner who has obtained a foreigner work permit shall, within 30 days of entry, apply for a residence permit to the public security authority. The term of the residence permit may be determined based on the term of the foreigner work permit.

Chapter IV — Labor Contract and Management

Article 13 — An employer and a foreigner employed shall conclude a labor contract in accordance with the law. The maximum term of the labor contract shall not exceed five years. Upon expiration, the labor contract may be renewed in accordance with the law.

Article 14 — The wages paid by an employer to a foreigner employed shall not be lower than the local minimum wage standard.

Article 15 — The working hours, rest and vacations, labor safety and hygiene, and social insurance of a foreigner employed in China shall be governed by the relevant State provisions.

Article 16 — An employer shall pay social insurance premiums for the foreigner employed in accordance with the law.

Article 17 — Where a foreigner changes his or her employer within the region designated by the license-issuing authority but the occupation remains unchanged, the change shall be subject to the approval of the original license-issuing authority and the formalities for changing the foreigner work permit shall be completed.

Article 18 — Where a foreigner changes his or her employer and the new employer is located in a different region, the foreigner shall re-apply for the work permit.

Article 19 — After the employment of a foreigner is terminated, the employer shall promptly report to the labor administrative department and public security authority and return the foreigner's work permit and residence permit.

Chapter V — Legal Liability

Article 20 — Where an employer employs a foreigner without authorization, the labor administrative department shall order the employer to repatriate the foreigner at the employer's expense and may impose a fine in accordance with the law.

Article 21 — Where a foreigner works without authorization, the public security authority shall, in accordance with the Exit and Entry Administration Law of the People's Republic of China, order the foreigner to cease the illegal employment and may impose a fine; where the circumstances are serious, the foreigner shall be ordered to leave the country within a specified time limit or be deported.

Article 22 — Where an employer forges, alters, fraudulently obtains, or transfers the employment permit or work permit by improper means, the labor administrative department shall revoke the relevant permits and confiscate the illegal gains.

Article 23 — Where staff members of labor administrative departments or public security authorities abuse their powers, neglect their duties or engage in favoritism, they shall be subject to administrative sanctions; where the circumstances constitute a crime, criminal liability shall be pursued in accordance with the law.

Chapter VI — Supplementary Provisions

Article 24 — The employment of residents of Taiwan, Hong Kong and Macao in the mainland shall be governed by the relevant provisions on the employment of residents of Taiwan, Hong Kong and Macao in the mainland.

Article 25 — Individual employment of foreigners in China is prohibited. Individual economic organizations and individual citizens shall not employ foreigners.

Article 26 — This Regulation shall come into force on May 1, 1996.

This translation is provided for informational purposes only. For legal matters, please consult the original Chinese text or seek professional legal advice. For assistance with foreign work permits, employment visas, residence permits and employer compliance for hiring foreign staff in China, please contact Dan Young Business Consultancy.